



AGENDA BILL APPROVAL FORM

Agenda Subject: VADIS Consultant Agreement AG-S-022-09		Date: December 15, 2008
Department: Finance	Attachments: Agreement AG-S-022-09	Budget Impact:

Administrative Recommendation:

City Council approve the 2009 2010 Consultant Agreement No. AG-S-022-09 with Vadis.

Background Summary:

AG-S-022-09 is a Bi-Annual Consultant Agreement with Vadis for a 24-month litter control program between the City of Auburn and Vadis, beginning January 1, 2009, and ending December 31, 2010. This agreement also includes a recycling pickup program that runs from April to September of each year. The City's current agreement with Vadis is valid through December 31, 2008. The fees for services under this agreement shall not exceed \$142,434 in 2009 and \$145,278 in 2010.

Vadis is a non-profit corporation that develops employment opportunities for individuals with disabilities. The litter crew is made up of five specially challenged individuals and a crew supervisor who collect trash and debris along City traveled ways. The contract has been renewed annually since 1991.

Vadis Litter Crew Accomplishments

- 1) The litter crew, on a daily average, will remove 35 2.5-cubic-ft. bags of litter from City traveled ways.
- 2) Average bag of litter weighs 30 pounds = 243,000 pounds per year.
- 3) Annually collect 121 tons of litter from City traveled ways.
- 4) The litter crew maintains 125 waste receptacles, 30 ash receptacles (for cigarette butts), and 38 aluminum can recycling receptacles in the City.
- 5) The litter crew responds to calls on illegal dumping 2 - 3 times per week.
- 6) The Vadis crew also fills sandbags as needed.
- 7) The recycling crew maintains 47 recycling containers at the City Parks

N1215-2

A3.16.3, O4.7.2

<p>Reviewed by Council & Committees:</p> <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Arts Commission <input type="checkbox"/> Airport <input type="checkbox"/> Hearing Examiner <input type="checkbox"/> Human Services <input type="checkbox"/> Park Board <input type="checkbox"/> Planning Comm. </div> <div> <p>COUNCIL COMMITTEES:</p> <input checked="" type="checkbox"/> Finance <input checked="" type="checkbox"/> Municipal Serv. <input type="checkbox"/> Planning & CD <input type="checkbox"/> Public Works <input type="checkbox"/> Other _____ </div> </div>	<p>Reviewed by Departments & Divisions:</p> <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Building <input type="checkbox"/> Cemetery <input type="checkbox"/> Finance <input type="checkbox"/> Fire <input type="checkbox"/> Legal <input type="checkbox"/> Public Works <input type="checkbox"/> Information Services </div> <div> <input type="checkbox"/> M&O <input type="checkbox"/> Mayor <input type="checkbox"/> Parks <input type="checkbox"/> Planning <input type="checkbox"/> Police <input type="checkbox"/> Human Resources </div> </div>
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Action:

Committee Approval: ☐ Yes ☐ No
 Council Approval: ☐ Yes ☐ No Call for Public Hearing ____/____/____
 Referred to _____ Until ____/____/____
 Tabled _____ Until ____/____/____

Councilmember: Cerino	Staff: Coleman
Meeting Date: December 15, 2008	Item Number: V.C.1

CITY OF AUBURN
AGREEMENT FOR SERVICES
AG-S-022-09

THIS AGREEMENT made and entered into on this ____ day of _____, 2008, by and between the **City of Auburn**, a municipal corporation of the State of Washington, hereinafter referred to as "City" and **Vadis**, 1701 Elm Street, Sumner WA 98390, hereinafter referred to as the "Provider."

WITNESSETH:

WHEREAS, the City is engaged in or readying itself to be engaged in its litter control and recycling program and is in need of services of individuals, employees or firms for litter control and recycling work; and,

WHEREAS, the City desires to retain the Provider to provide certain services in connection with the City's work related to litter control and recycling; and,

WHEREAS, the Provider is qualified and able to provide services in connection with the City's needs for the above-described work, and is willing and agreeable to provide such services upon the terms and conditions herein contained.

NOW, THEREFORE, the parties hereto agree as follows:

1. Scope of Services

The Provider agrees to perform in a good and professional manner the tasks described on Exhibit "A" which is attached hereto and incorporated herein by this reference. (The tasks described on Exhibit "A" shall be individually referred to as a "task," and collectively referred to as the "services.") The Provider shall perform the services as an independent contractor and shall not be deemed, by virtue of this Agreement and the performance thereof, to have entered into any partnership, joint venture, employment or other relationship with the City.

2. Additional Services

From time to time hereafter, the parties hereto may agree to the performance by the Provider of additional services with respect to related work or projects. Any such agreement(s) shall be set forth in writing and shall be executed by the respective parties prior to the Provider's performance of the services there under, except as may be provided to the contrary in Section 3 of this Agreement. Upon proper completion and execution of an Amendment (agreement for additional services), such Amendment shall be incorporated into this Agreement and shall have the same force and effect as if the terms of such Amendment were a part of this Agreement as originally executed. The performance of services pursuant to an Amendment shall be subject to the terms and conditions of this Agreement except where the Amendment provides to the contrary, in which case the terms and conditions of any such Amendment shall control. In all other respects, any Amendment shall supplement and be construed in accordance with the terms and conditions of this Agreement.

3. Performance of Additional Services Prior to Execution of an Amendment
The parties hereby agree that situations may arise in which services other than those described on Exhibit "A" are desired by the City and the time period for the completion of such services makes the execution of Amendment impractical prior to the commencement of the Provider's performance of the requested services. The Provider hereby agrees that it shall perform such services upon the written request of an authorized representative of the City pending execution of an Amendment, at a rate of compensation to be agreed to in connection therewith. The invoice procedure for any such additional services shall be as described in Section 7 of this Agreement.
4. Provider's Representations
The Provider hereby represents and warrants that he has all necessary licenses and certifications to perform the services provided for herein, and is qualified to perform such services.
5. City's Responsibilities
The City shall do the following in a timely manner so as not to delay the services of the Provider:
- Designate in writing a person to act as the City's representative with respect to the services. The City's designee shall have complete authority to transmit instructions, receive information, interpret and define the City's policies and decisions with respect to the services.
 - Furnish the Provider with all information, criteria, objectives, schedules and standards for the project and the services provided for herein.
 - Arrange for access to the property or facilities as required for the Provider to perform the services provided for herein.
- Specific responsibilities of the City are set forth in Exhibit B, which is attached hereto and by this reference made a part of this agreement.
6. Provider's Responsibilities
Specific responsibilities of the Provider are set forth in Exhibit B, which is attached hereto and by this reference made a part of this agreement.
7. Acceptable Standards
The Provider shall be responsible to provide, in connection with the services contemplated in this Agreement, work products and services of a quality and professional standard acceptable to the City.
8. Compensation
As compensation for the Provider's performance of the services provided for herein, the City shall pay the Provider the fees and costs specified on Exhibit "C" attached hereto and made a part hereof (or as specified in an Amendment). The Provider shall submit to the City an invoice or statement of time spent on tasks included in the scope of work provided herein, and the City shall process the invoice or statement in the next billing/claim cycle following receipt of the invoice or statement, and shall remit payment to the Provider thereafter in the normal course, subject to any conditions or provisions in this Agreement or Amendment. The Agreement number must appear on all invoices submitted.

9. Time for Performance and Term of Agreement

The Provider shall not begin any work under this Agreement until authorized in writing by the City. The Provider shall perform the services provided for herein in accordance with the direction and scheduling provided on Exhibit "A" attached hereto and incorporated herein by this reference, unless otherwise agreed to in writing by the parties. The Term of this Agreement shall terminate on **December 31, 2010**.

10. Ownership and Use of Documents

All documents, reports, memoranda, diagrams, sketches, plans, surveys, design calculations, working drawings and any other materials created or otherwise prepared by the Provider as part of his performance of this Agreement (the "Work Products") shall be owned by and become the property of the City, and may be used by the City for any purpose beneficial to the City.

11. Records Inspection and Audit

All compensation payments shall be subject to the adjustments for any amounts found upon audit or otherwise to have been improperly invoiced, and all records and books of accounts pertaining to any work performed under this Agreement shall be subject to inspection and audit by the City for a period of up to three (3) years from the final payment for work performed under this Agreement.

12. Continuation of Performance

In the event that any dispute or conflict arises between the parties while this Contract is in effect, the Provider agrees that, notwithstanding such dispute or conflict, the Provider shall continue to make a good faith effort to cooperate and continue work toward successful completion of assigned duties and responsibilities.

13. Administration of Agreement

This Agreement shall be administered by Wayne Perrault, on behalf of the Provider, and by the Mayor of the City, or designee, on behalf of the City. Any written notices required by the terms of this Agreement shall be served on or mailed to the following addresses:

City of Auburn

Joan Clark
Solid Waste & Recycling Coordinator
25 W Main St
Auburn, WA 98001-4998
Phone: 253.931.5103
Fax: 253-333-8890
E-mail: jeclark@auburnwa.gov

VADIS

Wayne Perrault
Commercial Services Manager
1701 Elm Street
Sumner WA 98390
Phone: 253.863.5173 Ext. 246
Fax: 253.863.2040
E-mail: wayne@vadis.org

14. Notices

All notices or communications permitted or required to be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered in person or deposited in the United States mail, postage prepaid, for mailing by certified mail, return receipt requested, and addressed, if to a party of this Agreement, to the address for the party set forth above.

Either party may change his, her or its address by giving notice in writing, stating his, her or its new address, to the other party, pursuant to the procedure set forth above.

15. Insurance

The Provider shall be responsible for maintaining, during the term of this Agreement and at its sole cost and expense, the types of insurance coverages and in the amounts described below. Insurance is to be placed with authorized insurers in Washington State with a current A.M. Best rating of not less than A-:VII. The Provider shall furnish evidence, satisfactory to the City, of all such policies. During the term hereof, the Provider shall take out and maintain in full force and effect the following insurance policies:

- a. Automobile Liability insurance, covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage. Provider shall maintain automobile insurance with minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
- b. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the Aggregate Per Project Endorsement ISO form CG 25 03 11 85. There shall be no endorsement or modification of the Commercial General Liability insurance for liability arising from explosion, collapse or underground property damage. The City shall be named as an insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing equivalent coverage. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate, and a \$2,000,000 products-completed operations aggregate limit.
- c. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

16. Indemnification

The Provider shall indemnify and hold harmless the City and its officers, agents and employees, or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by any reason of or arising out of the negligent act or omission of the Provider, its officers, agents, employees, or any of them relating to or arising out of the performance of this Agreement. If a final judgment is rendered against the City, its officers, agents, employees and/or any of them, or jointly against the City and the Provider and their respective officers, agents and employees, or any of them, the Provider shall satisfy the same to the extent that such judgment was due to the Provider's negligent acts or omissions.

17. Assignment

Neither party to this Agreement shall assign any right or obligation hereunder in whole or in part, without the prior written consent of the other party hereto. No assignment or transfer of any interest under this Agreement shall be deemed to release the assignor from any liability or obligation under this Agreement, or to cause any such liability or obligation to be reduced to a secondary liability or obligation.

18. Nondiscrimination

The Provider may not discriminate regarding any services or activities to which this Agreement may apply directly or through contractual, hiring, or other arrangements on the grounds of race, color, creed, religion, national origin, sex, age, or where there is the presence of any sensory, mental or physical handicap.

19. Amendment, Modification or Waiver

No amendment, modification or waiver of any condition, provision or term of this Agreement shall be valid or of any effect unless made in writing, signed by the party or parties to be bound, or such party's or parties' duly authorized representative(s) and specifying with particularity the nature and extent of such amendment, modification or waiver. Any waiver by any party of any default of the other party shall not affect or impair any right arising from any subsequent default.

Nothing herein shall limit the remedies or rights of the parties hereto under and pursuant to this Agreement.

20. Termination and Suspension

Either party may terminate this Agreement upon written notice to the other party if the other party fails substantially to perform in accordance with the terms of this Agreement through no fault of the party terminating the Agreement.

The City may terminate this Agreement upon not less than seven (7) days written notice to the Provider if the services provided for herein are no longer needed from the Provider.

If this Agreement is terminated through no fault of the Provider, the Provider shall be compensated for services performed prior to termination in accordance with the rate of compensation provided in Exhibit "B" hereof.

21. Parties in Interest

This Agreement shall be binding upon, and the benefits and obligations provided for herein shall inure to and bind, the parties hereto and their respective successors and assigns, provided that this section shall not be deemed to permit any transfer or assignment otherwise prohibited by this Agreement. This Agreement is for the exclusive benefit of the parties hereto and it does not create a contractual relationship with or exist for the benefit of any third party, including contractors, sub-contractors and their sureties.

22. Costs to Prevailing Party

In the event of such litigation or other legal action, to enforce any rights, responsibilities or obligations under this Agreement, the prevailing parties shall be entitled to receive its reasonable costs and attorney's fees.

23. Applicable Law

This Agreement and the rights of the parties hereunder shall be governed by and interpreted in accordance with the laws of the State of Washington and venue for any action hereunder shall be in of the county in Washington State in which the property or project is located, and if not site specific, then in King County, Washington; provided, however, that it is agreed and understood that any applicable statute of limitation shall commence no later than the substantial completion by the Provider of the services.

24. Captions, Headings and Titles

All captions, headings or titles in the paragraphs or sections of this Agreement are inserted for convenience of reference only and shall not constitute a part of this Agreement or act as a limitation of the scope of the particular paragraph or sections to which they apply. As used herein, where appropriate, the singular shall include the plural and vice versa and masculine, feminine and neuter expressions shall be interchangeable. Interpretation or construction of this Agreement shall not be affected by any determination as to who is the drafter of this Agreement, this Agreement having been drafted by mutual agreement of the parties.

25. Severable Provisions

Each provision of this Agreement is intended to be severable. If any provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.

26. Entire Agreement

This Agreement contains the entire understanding of the parties hereto in respect to the transactions contemplated hereby and supersedes all prior agreements and understandings between the parties with respect to such subject matter.

27. Counterparts

This Agreement may be executed in multiple counterparts, each of which shall be one and the same Agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed effective the day and year first set forth above.

CITY OF AUBURN

VADIS

Peter B. Lewis, Mayor

Signature
Name: _____

Attest:

Title: _____

Danielle Daskam City Clerk

Signature
Name: _____

Approved as to form:

Title: _____

Daniel B. Heid, City Attorney

EXHIBIT A

SCOPE OF WORK

The purpose of this Agreement is to contract with the Provider, a non-profit corporation that develops employment for individuals with disabilities, on a two-year clean-up program for the Solid Waste Division, as well as other maintenance tasks for either the City's Street, Water, Sewer, Storm Drainage or Equipment Rental Divisions.

Litter Crew

The Provider's Litter Crew shall perform the following:

A. Specific Tasks

1. **Solid Waste**
The Provider will collect and remove litter, trash, and debris from the shoulders of City traveled ways (including but not limited to streets, roads, alleys, paths, and parkways), public parking lots, and other designated areas. The Division for whom tasks are to be performed may be changed by the City's Solid Waste and Recycling Coordinator as provided in paragraph (5) below at the City's discretion to meet its needs.
2. **Equipment Rental**
Wash and clean designated City vehicles as assigned.
3. **Sewer**
Remove weeds and perform other landscaping duties as assigned.
4. **Storm Drainage**
Collect and remove tree leaves, limbs, trash, and other debris from the top of storm water catch basins and from the sidewalk curbs and gutters as assigned.
5. **Job Assignment Priorities**
Task assignments are subject to change and prioritization by the City Solid Waste and Recycling Coordinator, Department of Finance.

B. Examination of Work Sites

The Provider shall examine all work sites thoroughly before commencing work at the site. It shall be the responsibility of the Provider to verify all the duties, assignments, and job sites. All existing conditions at the job site will be noted and copies with verification noted, given to the City's Solid Waste and Recycling Coordinator on a daily basis.

C. Hours

- The Provider shall perform tasks to completion between the hours of 8:00 AM and 3:00 PM, Monday through Friday.
- The Provider shall recognize the same observed holidays as the City.
- The Provider will also take two (2) Floating Holidays per year for staff training.

Litter Crew – Annexation Area

The Provider's Annexation Area Crew shall perform the following:

A. Specific Tasks

The Provider's Annexation Area Crew shall perform tasks similar to the Litter Crew in the recently annexed Lea Hill and/or West Hill area(s) for a total of 15 hours per week. The Provider will have an additional supervisor, possessing a "Traffic Control Flagging License" certificate by the State of Washington, perform flagging on busy streets (Lea Hill Rd SE from the river to 124th Ave SE and 105th PL SE/107th PL SE/SE 320th St to Green River Community College) one day per month with the crew in the Lea Hill and/or West Hill area(s).

B. Hours

The Provider's Annexation Area Crew shall perform tasks to completion between the hours of 8:00 AM and 3:00 PM on three days of the week, Monday through Friday.

Recycling Crew

The Provider's Recycling Crew shall perform the following:

A. Specific Tasks

The Provider's Recycling Crew shall collect recyclables from the City-owned recycling receptacles and maintain the recycling receptacles in the City of Auburn Parks for a total of 15 hours per week. The Recycling Crew will be supervised and will bring a second Provider vehicle.

B. Hours

The Provider's Recycling Crew shall perform tasks to completion between the hours of 8:00 AM and 3:00 PM on three days of the week, Monday through Friday.

EXHIBIT B
RESPONSIBILITIES

PROVIDER

The Provider shall be responsible for the following:

1. The performance and accomplishment of tasks and work assigned in accordance with paragraph 2 below.
2. The performance of all work as provided in this Agreement with its own employees. Individuals who perform work under this Agreement must be carried on the Provider's payroll. The Provider is responsible for administering and paying employee wages, benefits, and all other employee-related costs. Although the Provider's company headquarters may be located outside of Auburn, Washington, the Provider shall provide a full-time supervisor in the Auburn geographical area who will continuously oversee the Provider's employee work and will have authority to represent the Provider in the day-to-day activities. The Provider supervisor must be trained in traffic control and must possess a "Traffic Control Flagging License" certified by the State of Washington. The Provider will present the supervisor's name, address, and telephone number to the City's Solid Waste and Recycling Coordinator at the beginning of the contract period. A second supervisor, possessing a "Traffic Control Flagging License" certified by the State of Washington, will perform flagging on the busy streets of Howard Road and Kersey Way. This second person will be available one day of the first week of the month, one day the second week of the month, and one day the third week of the month.
3. The Provider is responsible for the security of facilities where assigned tasks are performed as well as tools, equipment, safety gear, traffic control devices, and any other items which may be supplied by the City for the Provider's use in the performance of contracted duties. No equipment or supplies will be removed from City premises except as required for the performance of assigned duties.
4. The Provider shall supply the City with a quality control system acceptable to the City within ten days of the date of the Agreement. The quality control system shall be a plan specifying how the Provider will accomplish maintaining the level of performance required under this Agreement. Quality control statements shall be provided to the City's Solid Waste and Recycling Coordinator on a monthly basis.
5. The Provider shall supply a motor vehicle to transport its employees to and from the designated work sites. The Provider's vehicle shall be well identified with signs and equipped with safety warning lights, strobe light, and emergency flashers.
6. The Provider shall supply rain gear, foul weather gear, footwear as required, and clothing as needed for its employees.

7. The Provider shall follow accepted safety practices in the performance of all work. After every work shift of litter clean-up and other assigned tasks and services the following shall be done: the work areas shall be inspected for fire hazards; electrical or power machines and/or equipment shall be turned off; outside doors and windows closed and locked; gates closed and locked and all miscellaneous work tools and equipment shall be inspected and put away.

CITY

The City shall be responsible for the following:

1. The City shall supply litter bags to the Provider for its use in the collection of litter, trash, and debris.
2. The City shall supply traffic control devices, e.g., signs and traffic cones to the Provider so the Provider can place the traffic devices at work site(s) to protect its employees while performing services under this Agreement. The City shall also provide hard hats and reflective traffic vests.
3. The City shall supply the Provider with all grounds maintenance equipment and hand tools for performing outside grounds maintenance duties under this Agreement.
4. The City shall supply the Provider and its Auburn supervisor a copy of the daily work schedule and any change notices to use as a basic guide for the distribution of work each week. The work schedule may be changed as deemed appropriate by the City and a copy of such changes provided to the Provider and the City. The City shall determine the priority of the various assignments. The City shall verify that all services are satisfactorily performed as scheduled.

EXHIBIT C
FEE SCHEDULE

2009 Fee Schedule

	<u>Monthly Fee</u>	<u># of Months</u>	<u>Not-To-Exceed Amount</u>
Litter Crew	\$ 6,901	12	\$ 82,812
Litter Crew – AA	\$ 3,417	12	\$ 41,004
Recycling Crew	\$ 3,103	6	<u>\$ 18,618</u>
Total Not To Exceed Amount			<u>\$ 142,434</u>

2010 Fee Schedule

	<u>Monthly Fee</u>	<u># of Months</u>	<u>Not-To-Exceed Amount</u>
Litter Crew	\$ 7,039	12	\$ 84,468
Litter Crew – AA	\$ 3,485	12	\$ 41,820
Recycling Crew	\$ 3,165	6	<u>\$ 18,990</u>
Total Not To Exceed Amount			<u>\$ 145,278</u>